

PATENT COOPERATION TREATY

Translation

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

To:

Date of mailing
(day/month/year)

Applicant's or agent's file reference

PB 4424 PCT

FOR FURTHER ACTION

See paragraph 2 below

International application No.

PCT/FR2004/002089

International filing date (day/month/year)

05.08.2004

Priority date (day/month/year)

05.08.2003

International Patent Classification (IPC) or both national classification and IPC

Applicant

RHENTER, Jean-Luc

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/EP

Authorized officer

Facsimile No.

Telephone No.

WRITTEN OPINION OF THE
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International application No.

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Box No. I

Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
☐ This opinion has been established on the basis of a translation from the original language into the following language
_____, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material
☐ a sequence listing
☐ table(s) related to the sequence listing
 - b. format of material
☐ in written format
☐ in computer readable form
 - c. time of filing/furnishing
☐ contained in the international application as filed.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

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Box No. II

Priority

1. ☒ The following document has not yet been furnished:

☒ copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(a)).

☐ translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date in the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

**WRITTEN OPINION OF THE
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International application No.

PCT/FR2004/002089

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	<u>8</u>	YES
	Claims	<u>1-7, 9-10</u>	NO
Inventive step (IS)	Claims	<u></u>	YES
	Claims	<u>1-10</u>	NO
Industrial applicability (IA)	Claims	<u>1-10</u>	YES
	Claims	<u></u>	NO

2. Citations and explanations:

- Claim 1 mentions "les zones majeures d'appui du pied" ["the major bearing areas of the foot"] without specifying which areas these major bearing areas are. Furthermore, the term "major" itself, which appears to indicate that only certain bearing areas are concerned, does not make it possible, either, to identify with certainty the arrangement of these bearing areas: the "major bearing areas" could, for example, be the most extensive bearing areas or, alternatively, the bearing areas that undergo the greatest pressure (e.g. a small piece of the surface 8 identified in the description, or the zones 7 and 8).

- Claim 1 describes the presence of a "contour bordant les zones majeures d'appui" ["contour bordering the major bearing areas"]. As indicated in the description (page 8, lines 6-21), the term "bordant" ["bordering"] is interpreted as covering contours "relativement proches" ["relatively close"] (see PCT Guidelines, paragraph 5.38) to the contours of the major bearing areas of the foot.

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Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

Concerning independent claim 1:

- A) DE 27 09 546 A (D1: figures 1-3) describes the features of the preamble of claim 1 (page 4, line 2: "Einlagesohle" = insole; page 6, lines 12-16 and page 7, lines 1-11: hard part 1 in cork, part 3 in a flexible material).

The principal surface comprises bearing areas arranged so as to be positioned under each of the major bearing areas of the foot (page 5, lines 1-6), these bearing areas having a rigidity or hardness that is less than that of the other areas (page 6, lines 12-16), these bearing areas being limited by a contour bordering said major bearing areas of the foot (figures 1-3).

It must thus be concluded that the subject matter of claim 1 is not novel (PCT Article 33(2)).

DE 27 09 546 A also indicates (page 4, last paragraph) that these features allow satisfactory damping in the bearing areas, combined with increased stability.

- B) The applicant's attention is also drawn to the fact that all the features of claim 1 are known from DE 35 08 582 A (D2: figures; page 7, lines 18-22; the contour of the areas 3-6 and 8 borders, relatively closely, the major bearing areas of the foot, corresponding in this case to the heel, to a metatarsal and to under the toes), US 2001/039746 A1 (D3: figures), US-A-5 014 706 (D4: figures; column

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5, lines 34-49), WO 99/53785 A (D5: page 25, lines 16-25; figures).

Concerning dependent claims 2-10:

Dependent claims 2-10 are admissible only if they refer to an admissible independent claim.

Dependent claims 2-10 do not appear to contain any additional feature which, in combination with the subject matter of any one of the claims on which they depend, meets the requirements of the PCT in respect of novelty and/or inventive step, as either these features are already revealed in the prior art cited (see D1 to D5 in the case of claims 2-7 and 9-10), or they come within the scope of the customary practice followed by persons skilled in the art and the advantages thus achieved can readily be foreseen (claim 8).